(G.C.P.)J 455 (5,00,000)-11.2001) Spl-H.C.,A.S.,C.D.,78e

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

LETTERS PATENT APPEAL NO.42 OF 2006
IN
WRIT PETITION NO.7191 OF 2005

Office Notes, Office Memoranda of Coram, appearances, Court's order or directions and Registrar's order.	Court's or Judge's orders

Shri N.M.Ganguli for the appellant.

CORAM: R.M.S.KHANDEPARKAR
&
SMT.R.S.DALVI, JJ

DATED: 28TH MARCH, 2006.

P.C.

. Heard. The only ground on which the impugned order is sought to be challenged is that the employer had not raised any specific demand or had not reserved his right to lead evidence in respect of the chargesheet in case the labour court finds that the findings arrived at by the inquiry officer in respect of the charges against the employee were perverse. Plain reading of the impugned order nowhere discloses any such argument having been advanced before the learned Single Judge. The appeal also nowhere discloses that the same ground was raised either before the industrial court or

the labour court. It is too late for the appellant to seek stay of the impugned order on the said ground. Whether right to lead any evidence in respect of the chargesheet in case the labour court finds that the findings of the inquiry officer in respect of the charges against the employee were perverse is reserved or not has to be established based on the materials on record and such materials can be in the form of pleadings or in the form of oral request in the course of hearing before the labour court. In the absence of any such materials on record, there is no case for interference in the impugned order. Hence, the letters patent appeal is dismissed.

2. Needless to observe that as regards the amount which is already stated to have been withdrawn by the employee in the course of hearing, the question of refund or otherwise of the said amount cannot arise till the matter before the labour court is disposed of.

(R.M.S.KHANDEPARKAR, J)

(SMT.R.S.DALVI, J)